

names independently of one another with different spellings and each attributed the names to different sources. There is no evidence that Dejean was using the name earlier established by Samouelle but with an incorrect subsequent spelling. In the absence of any internal evidence, I think that Jameson & Howden (BZN 59: 246) are correct in exercising caution and considering *Odonteus* and *Odontaeus* as separate generic names. Clarification from the Commission on the nomenclatural status of *Odontaeus* Dejean is desirable.

Krell et al. (BZN 60: 305) also discuss the type species of *Bolboceras*. I disagree with their interpretation of Kirby's statement 'my details of *Bolboceras* were taken from *B. quadridens*' as an explicit type species designation. This statement is vague and I suspect it just refers to the use of *B. quadridens* for the illustrations of the genus. It certainly fails to fulfil the requirements of Articles 67.5 and 68.2 for type species designations. Curtis's explicit type species designation of *Scarabaeus mobilicornis* Fabricius for *Bolboceras* should stand. However, this should be clarified by the Commission in its ruling on the case.

Comment on the proposed conservation of the specific name of *Macropodus concolor* Ahl, 1937 (Osteichthyes, OSPHRONEMIDAE)
(Case 3255; see BZN 60: 206–207)

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When reading the application by Schindler & Staeck we cannot but wonder as to its true aim. In our opinion the application is flawed and partially incorrect. We therefore see no reason for supporting it, rather than simply respecting the Principle of Priority.

It appears to have escaped the petitioners' attention that *Macropodus concolor* Ahl, 1937 is a permanently invalid name. It is a junior primary homonym of *M. concolor* Schreitmüller, 1936b (a work mentioned by the petitioners).

Schreitmüller's (1936b) text makes it clear that although Ahl had coined the name, Ahl was not otherwise responsible for the conditions making it available. Schreitmüller alone is responsible for satisfying the criteria of availability (Article 50.1.1 of the Code). The name is clearly an unneeded replacement name for

M. spechti Schreitmüller, 1936 to which there is an explicit bibliographic reference (Article 13.1.3); both actions are explicitly by Schreitmüller. There are neither descriptive data nor any indication that Ahl had any responsibility for Schreitmüller's text. The figure (reproduced from Schreitmüller, 1936a) is by Schreitmüller, as indicated by his signature and in the heading of the paper. *Macropodus opercularis spechti* Schreitmüller, 1936a was published in October 1936, *M. o. concolor* Schreitmüller, 1936b was published on 12 November 1936, *M. o. concolor* Ahl, 1937 was submitted on 8 October 1936 and published in February 1937.

The use of *M. concolor* as a replacement name by Schreitmüller (1936b) makes it available with Schreitmüller as author (= responsible for the conditions making the name available; Article 50.1). This makes *M. concolor* Ahl, 1937 (described with its own series of syntypes) a primary junior homonym of *M. concolor* Schreitmüller, 1936b (thus permanently invalid; Article 57.2) and a junior objective synonym of *M. spechti* (the lectotype of *M. concolor* Ahl is also the lectotype of *M. spechti*). In conclusion, the petitioners ask for the conservation of a name that anyway would remain invalid because of the homonymy, and we consider that, *ipso facto*, the request is null and void.

Just as with *Macropodus spechti*, *M. concolor* Ahl, 1937 was based on aquarium material stated to have been collected in the Dutch East Indies, apparently erroneous information as the genus has never been found there. This has stimulated a number of speculations and theories as to its origin, which certain authors have considered to be a hybrid or domesticated variety. These speculations have neither an empirical nor a scientific basis. It is only very recently that the species was 'rediscovered' in the wild.

The description by Freyhof & Herder (2002) is the first and only description of the species satisfying modern standards in fish taxonomy, addressing the nomenclatural issues and accompanied by accurate locality data, information on morphology and coloration based on wild specimens, habitat data, and colour photographs of the live fish and its habitat. In addition, Freyhof & Herder (2002) discussed the other species of the genus and described two new species also overlooked by previous authors.

Given this, in addition to respecting priority, the use of *Macropodus spechti* has the great advantage of drawing a line between the speculations associated with the name *M. concolor* and the reliable data which we now have under the name *M. spechti*.

The petitioners err when they state (p. 207, line 6) that 'the senior name was effectively forgotten'. The senior name may not have been used as valid, but it was not forgotten. It is cited in some of the 28 works on the list submitted to the Secretariat by the petitioners themselves, either as an historical matter or as a synonym. The fact that these authors did not use the senior name may simply mean that they were unaware of some of the details of the Code.

The petitioners comment further that Schreitmüller (1936b) himself proposed giving priority to *Macropodus concolor* Ahl. As discussed above, it is only relevant to demonstrate that Schreitmüller's action was deliberate. No provision of the Code allowed Schreitmüller (1936b) to 'give priority' to a name that did not exist before and, technically, his action simply is the creation of an unneeded replacement name (Article 13.1.3). Schreitmüller was apparently careless about using unpublished data of others, but this is irrelevant as far as nomenclature is concerned.

Some of the claims of the petitioners are unsupported. The names of fish species commonly kept in aquaria appear in hundreds of publications, scientific as well as popular. By contrast, publications using the name *Macropodus concolor* are very few (28 listed by the petitioners is an insignificant number), indicating that the species is of marginal concern to aquarists. It is unavailable commercially, is kept only by a few individuals dedicated to a small group of species, and was virtually unknown to science until the appearance of Freyhof & Herder (2002). This is further evidenced by the list of 28 publications which includes seven papers published in aquarium magazines (some in obscure closed society journals almost impossible to find through normal library channels; e.g. *Der Makropode*) and 10 books on aquarium fishes reporting on any species once kept in aquaria (these would use any name, albeit only for adding entries; for most, the authors only repeated earlier compilations). Out of the 11 remaining titles listed by the petitioners, four are lists, type catalogues and biographies (among them, citation of Eschmeyer, 1998, is misleading as both *M. concolor* and *M. spechti* are listed, and *M. spechti* is not listed as a synonym; furthermore, the current on-line version records *M. spechti* as a valid name and *M. concolor* as its synonym: <http://www.calacademy.org/research/ichthyology/catalog/fishcatsearch.html>, as does FishBase www.fishbase.org) and seven can be termed scientific literature (or close to). The petitioners' list includes a paper by Herder & Freyhof in an aquarium magazine, which appears to be an inappropriate listing. Responsibly, Herder & Freyhof considered that their nomenclatural conclusions had first to be published in the scientific literature. We have checked only part of the 28 listed works, but the two patent cases mentioned above suggest that the list be taken with due reservation.

Macropodus spechti is not a well-known species for which the replacement of a junior synonym by the senior name would create a problem for anybody. Nomenclatural changes are reported quickly in the aquarium literature, and within a few months journals and web sites have adjusted. How is it possible that the change of a name of an inappropriately described fish, known only in a restricted circle, could affect the users of zoological nomenclature, while the change of both the generic and specific names of the rainbow trout from *Salmo gairdneri* to *Oncorhynchus mykiss* created no problem? *Oncorhynchus mykiss* is cited each year in thousands of scientific, technical, commercial and popular publications, is mentioned in national and international legal instruments, and is the object of a trade worth billions of dollars annually. How does this compare to the *M. spechti* case?

While there are many nomenclatural problems involving complex cases, well-known names, etc. waiting for rulings by the Commission, we find it the utmost shame to abuse the time of Commissioners with such an insignificant case. If the Commission has to be invoked for every case of synonymy involving pets, we have potentially hundreds of similar cases, enough to keep us busy for years writing applications and the Commission for years voting on the dullest possible cases, obstructing the way to much more significant cases. Nomenclature has purposes and impacts which certainly are beyond taxonomy and academic science. But nomenclature certainly does not have among its purposes the serving of vested interests. A good code is a code allowing the fewest possible exceptions.

For all the above reasons, we recommend the Commission to reject the application.